

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	CIVIL NO. 7:08-cv-265
vs.)	
)	
1.03 ACRES OF LAND, more or less,)	Tract No. RGV-MER-3007E-1
situated in HIDALGO COUNTY,)	Tract No. RGV-MER-3007E-2
TEXAS; and L. J. & J FAMILY LIMITED)	
PARTNERSHIP, et al.,)	
)	
<i>Defendants.</i>)	

**JOINT MOTION FOR ORDER ESTABLISHING JUST COMPENSATION, GRANTING
POSSESSION, AND DISTRIBUTING FUNDS ON DEPOSIT IN REGISTRY OF THE
COURT**

COME NOW Plaintiff, UNITED STATES OF AMERICA (herein "United States"), and Defendant, L. J. & J FAMILY LIMITED PARTNERSHIP, (herein referred to as "Defendant"), and make this joint motion for an Order: (1) establishing the just compensation to be paid by the United States for the taking of a perpetual and assignable easement and right-of-way in, over and across Tract RGV-MER-3007E-1 and the taking of a temporary and assignable easement and right-of-way in, over and across Tract RGV-MCS-3007E-2, all as more particularly described in Schedule E of the Complaint and Declaration of Taking filed herein (herein collectively referred to as "Estate") and in the real property more particularly described in Schedules C of said Complaint and Declaration (herein collectively referred to as "Subject Property"); (2) granting to the United States immediate possession of the Estate in Subject Property, and (3) distributing said just compensation from the funds on deposit in the Registry of the Court. As grounds for this Motion, the parties jointly state that:

1. The United States has filed a Declaration of Taking and Complaint in

Condemnation.

2. At the time of filing the Declaration of Taking, the United States deposited into the Registry of this Court the amount of \$14,580.00 being the consideration set forth in the Offer to Sell executed by Jesse Russell on behalf of Defendant on July 2, 2008 and accepted by Plaintiff on July 11, 2008.

3. Upon the filing of the Declaration of Taking and the deposit of the agreed just compensation in the registry of the Court, on September 5, 2008 the United States acquired title to the Estate in the Subject Property by operation of law.

4. The Defendant agrees that the United States is entitled to receive immediate possession of the Estate in Subject Property, and further agrees to the Court entering an Order to that effect.

5. The United States and Defendant hereby agree that the full and just compensation payable by the United States for the taking of the Estate in the Subject Property shall be the sum of \$14,580.00, plus any interest accrued thereon, and shall be in full satisfaction of any and all claims of whatsoever nature against the United States by reason of the institution and prosecution of this action and the taking of the Estate in Subject Property.

6. Defendant warrants that it was the owner of Subject Property on the date of taking; that it has the exclusive right to the compensation herein, excepting unpaid taxes and assessments, if any; and that no other party is entitled to the same or any part thereof by reason of any unrecorded agreement or otherwise.

7. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for the property taken in this case, the Defendant shall refund into the Registry of the Court the compensation distributed herein, or

such part thereof as the Court may direct, with interest thereon at an annual rate calculated pursuant to 40 U. S. Code 3116 (2006), from the date of receipt of the deposit by the Defendant to the date of repayment into the Registry of the Court.

8. The Defendant shall save and hold harmless the United States of America from all claims or liability resulting from any unrecorded leases or agreements affecting the subject property on the date of taking.

9. No portion of the estimated just compensation deposited by the United States into the registry of the Court has heretofore been paid, and the entire amount of the deposit remains in the Registry of this Court.

10. The parties shall be responsible for their own legal fees, costs, and expenses, including attorneys' fees, consultant's fees, and any other expenses or costs, that they shall take no appeal from any rulings or judgments made by the Court in this action, and the parties consent to the entry of all orders and judgments necessary to effectuate this joint motion.

11. There being no outstanding taxes or assessments due or owing, Defendant shall be responsible for paying any taxes or assessments owed on the property for the year of 2008 when they become due.

12. The parties also agree because final title examination results have not yet been obtained, the Court administratively close this case with the understanding the case can be reopened should any additional real party in interest with a claim upon the compensation be identified as a result of these title examinations and, if necessary, to clarify the precise taking pursuant to a metes and bounds survey.

13. Upon the Court's Order entering judgment in accord with this stipulation of just compensation and possession, the parties seek immediate distribution of all sums on deposit in

the Registry of the Court, together with any interest earned thereon while on deposit as be distributed to Defendant, L. J. & J. Family Limited Partnership.

Respectfully submitted,

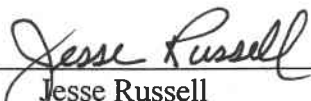
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L. J. & J. FAMILY LIMITED PARTNERSHIP

By: L.J. & J. Management, L.L.C., its General Partner

By: 
Jesse Russell
Its Manager

CERTIFICATE OF SERVICE

I, E. Paxton Warner, Assistant United States Attorney for the Southern District of Texas, do hereby certify that on September 12, 2008, I mailed a true and correct copy of the foregoing Joint Motion for Order Establishing Just Compensation, Granting Possession and Distributing Funds on Deposit in Registry of the Court and Proposed Order to L. J. & J. Family Limited Partnership via regular mail.

By: 
E. PAXTON WARNER
Assistant United States Attorney